

MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING
TOWN OFFICES COMMUNITY ROOM
April 26, 2005

Present

JK: Jeff Kablik, Chairperson	JZ: Jeanne Zarba	LC: Lori Capone, Director
LG: Lucy Gertz, Vice Chair	HJ: Henry Jungmann	Gloria Clancy, Clerk
RS: Robert Sherburne	FZ: Frank Zarba, Associate Member	

Absent

BL: Brian Logue	CH: Cynthia Hanna	LB: Laura Bride, Associate Member
-----------------	-------------------	-----------------------------------

7:00 Meeting opened by Jeff Kablik, Chairperson

The first two hearings were opened together as they are related and both are to be continued.

7:02 Missick Realty Trust – 100 Massapoag Road – Notice of Intent: (Map 3, Parcel 4)
(Continued from 5/25, 6/8, 7/27, 9/28, 10/26, 11/9/04 and 1/25 & 3/22/05) Proposed five (5) lot residential subdivision with driveways, grading, grass swale and associated utilities within the buffer zone.

7:15 Missick Realty Trust - Massapoag Roadway – Notice of Intent: (Map 3, Parcels 2,3,4,4-4,4-5,4-6 & 4-7) (continued from 3/22/05) Proposed roadway improvement, parking, drainage, grading, and associated utilities within the buffer zone of Lake Massapoag and the 200' riverfront area of a perennial stream. LC referred members to *letter of comments* from Howe Surveying. She pointed out some of the more important of the 29 items, but said most of the issues are minor and can be worked out before the next meeting. JK asked for member question/comments. There were none.

JZ: Motion to continue both Missick Realty Trust hearings to May 10 at 7:02 and 7:05 respectively.
RS: 2nd.

Unanimous. 5-0

Other Business:

- ❖ LC referred members to copies of ***DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS***. This *Declaration* is for Massapoag Roadway. Town Counsel Charles Zaroulis would like the members to read and forward any comments as soon as possible.
- ❖ LC went over a draft copy of our new ***Regulations*** and highlighted the changes that Town Counsel has suggested. Again, please forward any suggestions *ASAP*. We will be holding a public hearing soon, prior to voting on final revisions.
- ❖ LC read a copy of a ***Warrant Article*** that she has written for submission for Town Meeting. If approved at Town Meeting, any By Law fees collected will be retained by the Commission in a special *Conservation 53E ½ Revolving Account*. If not approved such fees will continue to go into the *General Fund*.

HJ: Motion to approve the submission of this ***Warrant Article*** for Town Meeting.

JZ: 2nd.

Unanimous. 5-0

Minutes 4/26/05 continued

- ❖ **Director's Determination** for Carl Aller – **11 Dane Circle**. Mr. Aller wants to level his backyard. He would grade to no more than a *3 to 1* slope. He will install hay bales and silt fencing to protect the resource area. No tree removal will be done. The members had no comments on this project.

HJ: Motion to approve the Director's Determination for 11 Dane Circle.

RS: 2nd.

Unanimous. 5-0

7:30 Blair J. Finnegan, Tyngsboro Partners LLC – 169 Westford Road – Notice of Intent:

(Map 15, Parcels 13 and 8) (Continued from 11/9/04 & 12/28/04, 1/25/05, 2/8/05, 2/22/05, 3/22/05 & 4/12/05) Construction of 92 detached condominiums with associated driveways, roadway and utilities some of which is within the 100 buffer zone and riverfront area. Joe Peznola of Hancock Associates representing the applicant turned in revised plans. He addressed some outstanding issues. The members had wanted a delineation of Bridge Meadow Brook and it's *Riverfront Area* in the upper reaches of the site and a ground survey of the other perennial stream on site. This they did by field survey. As a result of this delineation, the 200' line has been shifted. Some of the units have been relocated slightly. Joe stated that the project is still under the 10% of maximum disturbance. LC asked if the stream is really as consistent in width as depicted. He said he used an average of 20'. LC feels that the "actual" measurements should be used, since they are very close to the 10%. JK agreed. There was discussion. Edwards and Kelcey will review and recommend if they need to recalculate using actual measurements. The other issue had to do with the financials. JK had submitted a letter with several questions. The applicant just received it today and need time to address them. **A meeting was set for Wednesday, May 4th at 8:30 A.M.** David Sears will meet with Selectman Rich Lemoine, Attorney Mark Bobrowski, JK and LC and possibly Selectmen Kevin O'Connor. All members were encouraged to attend. LC suggested that since Attorney Bobrowski represents the Zoning of Appeals, the Commission may want to invite Town Counsel Zaroulis to attend. All members agreed. Additionally, LC suggested that we invite a financial consultant through Howe Surveying to address the Commission's role and requirement as set forth in 310 CMR 10.58(4)(c). The members agreed.

RS: Motion to continue this hearing to May 10th at 7:30 P.M.

JZ: 2nd.

Unanimous. 5-0

Other Business:

- ❖ **Director's Determination** for Lisa Walsh – **43 Patriot Road**. Mr. Walsh wants to remove 15 trees from his lot. The closest to the wetland (30') are two large pine trees, one that is totally ant infested. The others are well away from the wetland. The stumps are to remain. The members had no comments on this project.

LG: Motion to

JZ: 2nd.

approve the Director's Determination for 43 Patriot Road.

Unanimous. 5-0

- ❖ LC referred to amended Minutes of the Meeting of March 22. Elizabeth Coughlin, 61 Lakeview Avenue, had noted some errors in abutter comments. LC read the corrections.

JZ: Motion to accept the revised minutes of March 22.

HJ: 2nd.

Unanimous. 5-0

❖ Members signed DEP forms.

❖ LC referred to copies of minutes of Forest & Trails meetings of 3/2 and 4/6.

HJ: Motion to accept the minutes of the Forest and Trails Subcommittee meetings of March 2 and April 6.

RS: 2nd.

Unanimous. 5-0

❖ **Elizabeth Coughlin** pointed out a discrepancy in the draft minutes of our meeting of April 12. There was discussion and LC will edit the minutes of 4/12.

8:00 Linnette Rivera – Lot 12 River Bend Road – Notice of Intent: (Map 20B, Parcel 29, Lot 12) (Continued from 2/22/05, 3/8/05, 3/22/05 & 4/12/05) Installation of a dock along the Merrimack River, and proposed clearing of 25'x25' area for parking within the 200' Riverfront Area. Mike Turgeon of Turgeon Environmental Services was present with the applicant. He explained some changes made to the plan. The parking area has been redesigned to have no impact to the floodplain. The plan shows the septic system of an adjacent parcel extending into this parcel, however all work will be a minimum of 20' from the edge of the system. He told the members that the applicant will be clearing a path from the parking area to the dock and will be removing invasive species and spot treating poison ivy. There will be no ground disturbance and all debris will be removed off-site. The floating dock will be stored on land off-season. JK asked for member comments, then opened to abutter questions/comments. There were many abutters present. Chris Peredina of 10 River Bend Road addressed the members with a letter, dated April 12, 2005, from Gallant & Ervin, LLC, that the abutters have retained. The letter itemized 20 points of contention. Mr. Turgeon addressed each comment. JK singled out the comment that the license of the surveyor used by the applicant has expired and not been renewed. He would like confirmation of that. HJ commented that according to the Board of Health Administrator the applicant could legally request to have the abutter remove their septic system from her property. Jane Pirkle of 5 River Bend Road told the members that although they may see this project as a small project, the abutters do not. She also questioned what sanitary facilities the applicant plans to use while enjoying her property? Linnette answered that her boat has built in facilities and there are special disposal sites located along the river. JK commented that since the letter details a number of issues, the Commission should continue this hearing so the applicant has time to respond and make changes as needed.

HJ: Motion to continue this hearing to May 10 at 7:45 P.M.

JZ: 2nd.

Unanimous. 5-0

JZ pointed out that May 10 is Town Election Day. We don't usually set hearings to coincide with Election Day or Town Meeting nights.

JZ: Motion to have LC contact the parties from the prior continued hearings to change the continuances to May 24th.

HJ: 2nd.

Unanimous. 5-0

8:15 (9:00) Applewood Construction Corp - 75 Lakeview Avenue – Abbreviated Notice of Resource Area Delineation: (Map 25, Parcel 58) (Continued from 3/22/05 & 4/12/05) Verification of resource area delineation of bordering vegetated wetland, riverfront area of Lawrence Brook and flood plain area. Maureen Hanley of Norse Environmental Services, Inc. passed out new plans. She said that as a result of a request at the last meeting, she and LC revisited the site to search for vernal pools and endangered species habitat. She said they did find one ponded area but not any vernal pool species, and that it was all within the designated wetland area. JK asked for member comments then opened the floor to abutters. Elizabeth Coughlin (61 Lakeview Avenue), Randy Dean (57 Lakeview Avenue), and Ken Times JR. (91 Frost Road) came forward to view the plan. Elizabeth commented that the topo would change if there is grading done, i.e.: leveling of the hill. Maureen reminded her that this filing is just an ANRAD. That Notices of Intent will be filed for any future projects. Elizabeth Coughlin stated she met Maureen Hanley and LC out on the site while they were inspecting the parcel for vernal pools and endangered species and commented on how professional both parties have handled themselves.

HJ: Motion to close the hearing.

RS: 2nd.

Unanimous. 5-0

HJ: Motion to issue an Order of Resource Area Delineation for 75 Lakeview Avenue per plan revised 4/25/05.

JZ: 2nd.

Unanimous. 5-0

8:30 (9:20) Kevin Cashman – 299 Westford Road – Notice of Intent: (Map 8, Parcel 48B, Lot 0) (Continued from 4/12/05) Construction of a new dwelling, barn, and their associated utilities within the buffer zone and riverfront area. Kirk Fitzpatrick presented the more detailed cross section of the proposed crossing versus existing crossing as requested at the last meeting. LC commented that it will be an improvement over what is out there now. There were no more questions from the members or the audience.

RS: Motion to close the hearing.

JZ: 2nd.

Unanimous. 5-0

LG: Motion to issue an OOC per plan revised 4/21/05 with the condition that the crossing be completed prior to any heavy machinery accessing the area.

JZ: 2nd.

Unanimous. 5-0

JZ: Motion to adjourn.

RS: 2nd.

Unanimous. 5-0

Meeting adjourned at 9:30 P.M.

Respectfully Submitted by Gloria Clancy, Clerk